

**FILED**

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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
MISSOULA DIVISION

MONTANA SHOOTING SPORTS )  
ASSOCIATION, INC., *ET AL.*, )

Plaintiffs, )

vs. )

ERIC H. HOLDER, JR., Attorney )  
General of the United States, )

Defendant. )

Case No. 9:09-cv-147-DWM-JCL

UNOPPOSED MOTION FOR  
LEAVE TO PARTICIPATE AS  
*AMICI CURIAE* OF  
GUN OWNERS FOUNDATION,  
GUN OWNERS OF AMERICA,  
INC., AND VIRGINIA CITIZENS  
DEFENSE LEAGUE

Gun Owners Foundation, Gun Owners of America, Inc., and Virginia Citizens Defense League (hereinafter “GOF, *et al.*”), through their undersigned counsel, file this unopposed motion for leave to participate as *amici curiae* in the above-captioned case in support of plaintiffs.

Counsel for GOF, *et al.* has consulted with counsel for the plaintiffs who has consented to this motion and the participation of GOF, *et al.* as *amici curiae*. Counsel for GOF, *et al.* has also consulted with counsel for the defendant who does not oppose this motion.

#### **INTEREST OF THE *AMICI CURIAE***

GOF, *et al.* plan to file an *amicus curiae* brief in support of the plaintiffs in this case. Gun Owners Foundation is a nonprofit educational organization, exempt from federal income tax under section 501(c)(3) of the Internal Revenue Code (“IRC”), and is a public charity. Gun Owners of America, Inc. and Virginia Citizens Defense League are nonprofit social welfare organizations, exempt from federal income tax under IRC section 501(c)(4).

Each of the *amici* was established, *inter alia*, for educational purposes related to participation in the public policy process, which purposes include programs to conduct research, and to inform and educate the public, on important issues of national concern, the construction of state and federal constitutions and statutes related to the right of citizens to bear arms, and questions related to human

and civil rights secured by law, including the defense of the rights of crime victims, the rights to own and use firearms, and related issues. These organizations previously have filed *amicus curiae* briefs in other federal litigation, including important Second Amendment cases such as District of Columbia v. Heller, 554 U.S. \_\_\_, 128 S.Ct. 2783 (2008).

The *amici curiae* believe that their perspective on the issues in this case will be of assistance to the District Court in deciding the defendant's pending motion to dismiss. They anticipate that their *amicus curiae* brief, while generally supporting plaintiff's argument, will emphasize that the application of federal firearms regulation in Montana must give way to the Tenth Amendment's guarantee of reserving, to the states or the people, all power not delegated to the United States government, and that the Second Amendment constrains the federal government from imposing licensure requirements on the manufacture and sale of firearms.

### ARGUMENT

U.S. district courts have broad discretion to appoint or allow the participation of an *amicus curiae* in pending proceedings. See Hoptowit v. Ray, 682 F.2d 1237 (9th Cir. 1982); see also National Wildlife Federation v. National Marine Fisheries Service, 2005 U.S. Dist. LEXIS 16657, \*14-\*15 (Dist. Ore. 2005). The Ninth Circuit has also recognized the "classic role of *amicus curiae* by

assisting in a case of general public interest, supplementing the efforts of counsel, and drawing the court's attention to law that escaped consideration." Miller-Wohl v. Commissioner of Labor & Industry, 694 F.2d 203 (9th Cir. 1982).

As discussed above, GOF, *et al.* have participated in various cases relating to firearms laws and believe their perspective and research will assist this Court in this proceeding. Furthermore, counsel for the parties have either consented or do not oppose the participation of GOF, *et al.*, thereby acknowledging that they will not be prejudiced the granting of this motion. The Court's scheduling order explicitly recognized the participation of *amici* in this case with respect to defendant's motion to dismiss, and the brief *amicus curiae* is being submitted by the deadline established, and thus will not delay the court or the parties.

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## CONCLUSION

For the foregoing reasons, GOF, *et al.* hereby request this Court to permit their participation in this proceeding. A proposed order is being submitted with this motion.

Respectfully submitted this 13<sup>th</sup> day of April, 2010.



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## CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing was served upon the persons named below by mailing, hand-delivery, Federal Express, or by telecopying to them a true and correct copy of said document. Dates this 13<sup>th</sup> of April, 2010.

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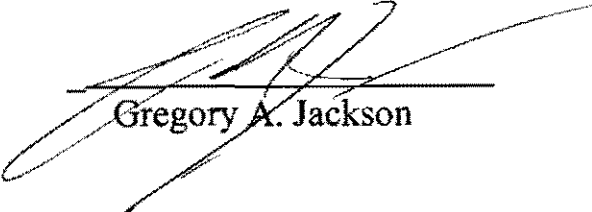
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